

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 76 of 1999

with

CIVIL REVISION APPLICATION No 412 of 1999

For Approval and Signature: Sd/-

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 No

DAYAL GANDHUMAL CHATURANI

Versus

MURLIDHAR NARANDAS SHARMA

Appearance:

1. Appeal from Order No. 76 of 1999
MR CH VORA for Petitioner
MR BM MANGUKIYA for Respondent No. 1, 2
2. Civil Revision ApplicationNo 412 of 1999
MR NV ANJARIA for Petitioner
MR CL SONI for Respondent No. 1
MR BM MANGUKIYA for Respondent No. 2

Date of decision: 04/07/2000

ORAL JUDGEMENT

Appeal from Order No.76 of 1999 is preferred from the order dated 18.12.1998 passed below the application at Ex.5 in Special Civil Suit No.21 of 1998 pending before the learned Civil Judge (S.D.), Anjar. It is recorded in the impugned order that, on the basis of the material placed on record it was extremely difficult to decide as to who was in actual possession of the suit land and this aspect is required to be decided after taking evidence. Under such circumstances, the learned Judge has made the impugned order directing all the parties to maintain status quo as regards possession and ownership of the suit land. A part of the land which is alleged to have been transferred to a third party and to whom a yadi is ordered to be sent by the impugned order, has filed Civil Revision Application No.412 of 1999 with a grievance that no order could have been passed against him without being made a party to the aforesaid suit.

2. The learned counsel Mr.C.H.Vora has vehemently argued that the original plaintiff has failed to establish any title or interest in the suit property while the appellant is a bona fide purchaser of the suit property for value and the suit is filed with an ulterior motive after a very long time. Therefore, it is submitted that the original plaintiff is not entitled to any equitable relief. The learned counsel Mr.C.L.Soni has submitted that considerable evidence which was produced before the trial Court has been rightly relied upon by the trial Court to grant the interim relief. At this stage, it is difficult to appreciate the contents and impact of such documentary evidence which is not before this court.

3. There is a consensus among the learned advocates appearing for each party in both the matters that it is necessary in the interest of justice that the original civil suit is proceeded further and disposed as expeditiously as possible so that the issues arising in the case can be finally decided in light of the evidence that may be led by the parties. It is also suggested that the petitioner in the Civil Revision Application here is already applied to be made a party in the original civil suit by the original plaintiff. It is also just and proper that the parties should maintain the status quo till final disposal of the original civil

suit.

4. Therefore, in the overall facts and circumstances and in view of the submissions of the learned counsel, it is ordered that the parties shall continue to maintain the status quo as ordered by the impugned order and the original suit shall be heard and decided as expeditiously as possible, preferably within six months from today. The learned counsel appearing for the parties undertake that they will not ask for any unnecessary adjournments and cooperate in the final disposal of the suit. In terms of this order, the appeal and the civil revision application stand disposed. Rule issued in the civil revision application stands discharged. No order as to costs.

Sd/-

(KMG Thilake)

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